



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/477,042	12/31/1999	HENRY JOHN HUMMEL JR.	15-SV-5359	8637

23566 7590 09/24/2003

OSTRAGER CHONG & FLAHERTY LLP
825 THIRD AVE
30TH FLOOR
NEW YORK, NY 10022-7519

EXAMINER

DEMICCO, MATTHEW R

ART UNIT	PAPER NUMBER
----------	--------------

2697

DATE MAILED: 09/24/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/477,042

Applicant(s)

HUMMEL JR. ET AL.

Examiner

Matthew R Demicco

Art Unit

2697

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Attached Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____



ANDREW FAILE

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

DETAILED ACTION

Response to Amendment

1. This action is responsive to an after final amendment filed 8/21/03. Claims 1-9 and 19-28 are pending. Applicant has made argument with respect to claims 1-3, 5, 6, 8, 19-21 and 23-28.

Response to Arguments

2. Regarding Claims 1-3, 5, 6, 8, 19-21 and 23-28, Applicant argues that one of ordinary skill in the art would not consider a portable computer functionally connected to a scanning system to be a component of that system. The Examiner believes that Applicant has integrated the functionality of two well-known devices together, namely a computer and a medical scanning device. It is well known in the art that a medical scanning device may contain or be controlled by a computer. Such medical devices are increasingly dependent on computers, including video display screens, keyboards, etc. Further, Levy has disclosed a direct connection between such a medical scanning device and a portable computer. The functionality of the portable computer is simply to interconnect a remote site with the host site for the transmission of readings from the medical apparatus (Col. 4, Lines 63-65). This is essentially the purpose of the computer claimed by Applicant. Applicant therefore argues that the patentable advance in the instant application is the integration of the two separate devices. It is noted that both devices as integrated by applicant function together as one of ordinary skill in the art might expect. Furthermore it is held that the integration of two separate devices accomplishing the same function is not a patentable advance in the art (See *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965)).

Art Unit: 2697

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155.

The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

VPD

mrd
September 16, 2003